



# CITY OF MEMPHIS

## COUNCIL AGENDA

January 27, 2009

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

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**CALL TO ORDER by the Sergeant-at-Arms**

**INVOCATION**

**PLEDGE OF ALLEGIANCE**

**CALL OF ROLL by the Comptroller**

**APPROVAL OF PREVIOUS MEETING MINUTES (January 6, 2009)**

**ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING**

**ITEMS HELD OR DROPPED FROM THE AGENDA**

**PRESENTATIONS AND RECOGNITION OF VISITORS** (None)

**PUBLIC HEARINGS**

1. RESOLUTION approving a planned development located on the existing western terminus of Market Plaza Drive, containing 15 acres in an area currently governed by PD 04-312.

Morrison

Case No. PD 08-326

Applicant: Tombo Properties  
John Maxwell – Representative

Request: Amend Outline Plan Parcel I-D of the Galleria Planned Development to expand it by including 15 acres from Outline Plan Parcel I-A, in order to permit hotels/motels, including site plan approval for the construction of a Hilton Garden Inn Hotel six stories in height with 138 guest rooms

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**11 NOTICES MAILED ON JANUARY 9, 2009**

2. RESOLUTION approving a planned development located on the north side of Trinity Road, +749 feet west of Germantown Road, extending north to the south side of Moriarity Road, containing 4.3 acres in the Heavy Industrial (I-H) District.

Morrison

Case No. PD 08-329

Applicant: B & H Hospitality, LLC (Bill Brennan)  
Ronald Harkavy – Representative

Request: Hotel, Office, Retail or Restaurant

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**27 NOTICES MAILED ON JANUARY 9, 2009**

**DIVISION OF PLANNING & DEVELOPMENT**

3. RESOLUTION approving a use variance located on the northeast corner of Rembert Street and Union Avenue with frontage on Morrison Street intersection, containing 1.575 acres in the Highway Commercial (C-H) and Multiple Dwelling Residential (R-MM) Districts.

Morrison

Case No. UV 08-12

Applicant: Chick-Fil-A, Inc.

Request: Use variation to allow driveway and off-street parking for a restaurant

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

**No Opposition at LUCB; No Public Hearing Required**

**ZONING ORDINANCES – THIRD AND FINAL READING**

4. **ORDINANCE** to amend zoning regulations to adopt definitions for Financial Services, Payday Loan Establishments and Title Loan Establishments and to create new use categories for Payday Loan Establishments and Title Loan Establishments and to establish location and distance separation requirements for Payday and Title Loan Establishments, up for T H I R D and F I N A L reading. **(This item was pulled from the Minutes of 12/2/08 on 12/16/08 and sent back to Committee).** (Held from 1/6)

Morrison

Ordinance No. 5284

Case No. ZTA 08-001cc

ACTION REQUESTED: Take whatever action Council deems advisable

5. **ORDINANCE** rezoning the south side of Overton Park Avenue; +114.58 feet west of Hawthorne Street, containing 0.3932 acre in the Single Family Residential (R-S8) District, up for T H I R D and F I N A L reading.

Morrison

Ordinance No. 5290

Case No. Z 08-116

Applicant: Mr. & Mrs. Caleb Sweary  
Askew Hargraves Harcourt & Associates – Representative

Request: Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Take whatever action Council deems advisable

**100 NOTICES MAILED ON JANUARY 16, 2009**



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## CONSENT AGENDA

### GENERAL ORDINANCE - FIRST READING

6. **ORDINANCE** to require Council approval on all lawsuits initiated by the City, up for F I R S T reading.

Lowery

Ordinance No. 5294

ACTION REQUESTED: Adopt the ordinance on First reading

### GENERAL ORDINANCES - SECOND READING

7. **ORDINANCE** to amend the Code of Ordinances, of the City of Memphis, Pertaining to the Contracts of the Memphis Light, Gas and Water Division relating to Settlement Agreements Under Workers' Compensation Laws, up for S E C O N D reading.

Ware

Ordinance No. 5291

ACTION REQUESTED: Adopt the ordinance on Second reading

8. **ORDINANCE** to provide for Minimum Energy Efficiency in Rental Property, up for S E C O N D reading.

Ware

Ordinance No. 5292

ACTION REQUESTED: Adopt the ordinance on Second reading

9. **ORDINANCE** to amend Chapter 2, Article XI, Code of Ordinances, City of Memphis, so as to Change the Reporting Requirements for Small Businesses, up for S E C O N D reading.

Halbert

Ordinance No. 5293

ACTION REQUESTED: Adopt the ordinance on Second reading

### ZONING ORDINANCES - FIRST READING

10. **ORDINANCE** rezoning the north end of Bledsoe Road cul-de-sac; north of Holmes Road, containing 16.91 acres in Single Family Residential (R-S6) District, up for F I R S T reading.

Morrison

Ordinance No. 5295

Case No. Z 08-117

Applicant: Mark H. George  
ETI Corporation – Representative

Request: Heavy Industrial (I-H) District

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on First reading

11. **ORDINANCE** rezoning Moore Road, beginning at Germantown Parkway and ending at Walnut Grove Road, extending approximately one mile in length in the Agricultural (AG) District, up for F I R S T reading.

Morrison

Ordinance No. 5296  
Case No. SNC 08-802

Applicant: Agricenter International  
John Charles Wilson – Representative

Request: Street name change from Moore Road to Smythe Farm Road

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the ordinance on First reading

**ZONING ORDINANCE - SECOND READING** (None)

**ENGINEERING**

12. RESOLUTION accepting STAGE CREEK CENTER P.D., PHASE II, AREA A, PART of AREA B and authorizing release of bond.

Case No. PD 95-331cc  
(Contract No. CR-4072)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the south side of Stage Road east of Appling Road. The standard improvement contract was approved on May 7, 1996. Resolution also authorizes the release of the Letter of Credit in the amount of \$14,800.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

13. RESOLUTION accepting STONEBRIAR P.D., PHASE 5 and authorizing release of bond.

Case No. PD 03-335cc  
(Contract No. CR-5011)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the west side of Shades Valley Place, south of East Holmes. The standard improvement contract was approved on May 16, 2006.

Resolution also authorizes the release of the cash bond in the amount of \$99,800.00. This action is subject to County approval.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

14. RESOLUTION accepting BLUFF CITY BUSINESS PARK SUBDIVISION and authorizing release of bond.

Case No. S 07-019  
(Contract No. CR-5112)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the southeast corner of Getwell and Mallory Avenue. The standard improvement contract was approved on August 19, 2008. Resolution also authorizes the release of the letter of credit in the amount of \$38,700.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

15. RESOLUTION approving final plat of JACKSON AVENUE OPEN AIR COMMUNITY MARKET P.D., PHASE 1.

Case No. PD 07-301

Resolution approves the final plat located on the west side of Jackson Avenue and the south side of Wales Avenue.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

**NOTATIONS FROM OPD** (None)



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### MLGW FISCAL CONSENT

16. RESOLUTION approving Change No. 2 to Contract No. 11186, Environmental Abatement Services, with General Construction Services, Inc., in the funded amount of \$3,200,500.00. (This renews the contract for the first of four renewal terms, December 10, 2008 to December 9, 2009.)
17. RESOLUTION awarding contract for 12-month supply of #2 triplex cable to Power Supply Company in the amount of \$260,000.00.
18. RESOLUTION awarding contract for remote terminal units and accessories to Telvent USA, Inc. in the amount of \$71,169.50.
19. RESOLUTION amending resolution approved by the Board on February 7, 2008, for gas meters to include the following language: *with an option to extend the contract for two additional 12-month periods, not to exceed 36 months, based on satisfactory performance of the initial 12-month period*, and requesting approval to exercise the option to extend the contract for the second 12-month period for gas meters as follows:

Elster American Meter Company.....	\$766,379.00
Romet International LTD.....	<u>281,782.00</u>
Total.....	<u>\$1,048,161.00</u>

20. RESOLUTION awarding contract for one hydraulic excavator to Power Equipment Company in the amount of \$142,000.00.
21. RESOLUTION awarding contract to Diamond International Trucks, Inc. for modifications to four cabs and chassis in the amount of \$51,621.12.



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## REGULAR AGENDA

**GENERAL ORDINANCES – THIRD AND FINAL READING** (None)

**ENGINEERING DIVISION** (None)

**EXECUTIVE DIVISION** (None)

**FINANCE & ADMINISTRATION** (None)

**DIVISION OF FIRE SERVICES**

22. RESOLUTION amending the Fiscal Year 2009 Capital Improvement Budget by transferring \$148,308.00 in funds from Fire Station Repair, Project Number FS02001 to Fire Station #57, Project Number FS02014. The resolution also appropriates \$3,148,308.00 funded by G.O. Bonds-General in Fire Station #57, Project Number FS02014, Contract Construction.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

**DIVISION OF GENERAL SERVICES** (None)

**DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT** (None)

**DIVISION OF HUMAN RESOURCES** (None)

**LAW DIVISION** (None)

**MLGW DIVISION**

23. RESOLUTION approving amendments to Article I, Definitions, Section 1.32, Eligible Rollover Distribution; Section 1.37, Handicapped Child; and Section 1.39, Definition of Limitation Year of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated, effective January 1, 2001.

Ware

ACTION REQUESTED: Adopt the resolution



24. RESOLUTION approving amendments to Article VI, Retirement and Termination Benefits, Section 6.3, Ordinary Disability Retirement Benefit, (a) General; Section 6.6, Adjustments, (a) General and (b) Amount of Adjustment; and Section 6.8, Special Provisions Concerning Disability, (c) Rehabilitation of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated, effective January 1, 2001.

Ware

ACTION REQUESTED: Adopt the resolution

25. RESOLUTION approving amendments to Article VII, Payment of Benefits, Section 7.2, Lump-Sum Payment of Benefit, Section 7.3, Direct Rollover Distributions; and Section 7.5, Claims, (a) Procedure and (b) Review Procedure of the Memphis Light, Gas and Water Retirement and Pension System as Amended and Restated, effective January 1, 2001.

Ware

ACTION REQUESTED: Adopt the resolution

26. RESOLUTION approving amendment to Article VIII, Death Benefits, Section 8.2, In-Service Death, (a) Unvested Participant of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated, effective January 1, 2001.

Ware

ACTION REQUESTED: Adopt the resolution

27. RESOLUTION approving amendments to Article X, Administration, Section 10.1, Pension Board: Appointment and Term of Office, (b) Term; and Section 10.3, Powers and Responsibilities of the Pension Board of the Memphis Light, Gas and Water Division Retirement and Pension System as Amended and Restated, effective January 1, 2001.

Ware

ACTION REQUESTED: Adopt the resolution

28. RESOLUTION approving a policy to manage the price volatility of commodities consumed in the normal course of operating the Memphis Light, Gas and Water Division (MLGW) Systems.

Ware

ACTION REQUESTED: Adopt the resolution

**PARK SERVICES** (None)

**DIVISION OF POLICE SERVICES** (None)

**DIVISION OF PUBLIC SERVICES** (None)

**DIVISION OF PUBLIC WORKS**

29. RESOLUTION amending the FY 2009 Capital Improvement Budget by transferring an allocation of \$2,750,000.00 funded by G.O. Bonds (Storm Water) from Major Drainage Rehab/Replace, Project Number ST03098, to Trenchless Rehab FY 09, Project Number ST03114, for rehab of trenchless storm water structures. Resolution also appropriates \$2,750,000.00 funded by G.O. Bonds (Storm Water) for Trenchless Rehab FY09, Project Number ST03114, for a construction contract with Moore Construction Company, Inc.

Boyd

ACTION REQUESTED: Adopt the resolution

30. RESOLUTION amending the FY 2009 Capital Improvement Budget by transferring an allocation of \$2,750,000.00 funded by G.O. Bonds (Storm Water) from Major Drainage Rehab/Replace, Project Number ST03098, to Infrastructure Rehab FY09, Project Number ST03115, for rehab of storm drainage infrastructure. Resolution also appropriates \$2,750,000.00 funded by G.O. Bonds (Storm Water) for Infrastructure Rehab FY09, Project Number ST03115, for a construction contract with Ferrell Paving, Inc.

Boyd

ACTION REQUESTED: Adopt the resolution

**GENERAL ITEM** (None)

**APPEARANCE CARDS FOR PUBLIC SPEAKING**

**ADJOURNMENT**

**ADD-ONS**

31. RESOLUTION honoring Ronnie Green for outstanding service to the community.  
Brown

ACTION REQUESTED: Adopt the resolution

32. RESOLUTION creating the Civilian Law Enforcement Review Board Ad Hoc Committee.  
Fullilove

ACTION REQUESTED: Adopt the resolution

33. RESOLUTION to exempt certain City of Memphis Police Officers whose duties require them to perform services on behalf of the City outside of the territorial limits of the City of Memphis.  
Collins

ACTION REQUESTED: Adopt the resolution

**ACTION TAKEN BY COUNCIL ON THIS DATE**

1. Approved
2. Approved, as amended
3. Approved
4. Approved, as amended
5. Through 31 – Approved
32. Dropped
33. This item was split into (2) separate resolutions and both resolutions were Approved

**ACTION TAKEN ON THE MINUTES OF JANUARY 6, 2009 MEETING**

Approved, as amended

**ACTION TAKEN ON THE MINUTES OF #33's SHELBY COUNTY RESIDENCY**

Approved